

## **REMARKS**

The Applicant does not believe that examination of the foregoing amendment will result in the introduction of new matter into the present application for invention. Therefore, the Applicant, respectfully, requests that the above amendment be entered in and that the claims to the present application, kindly, be reconsidered.

The Office Action dated July 27, 2005 has been received and considered by the Applicants. Claims 1-24 are pending in the present application for invention. Claims 1-24 are rejected by the July 27, 2005 Office Action.

Claims 2 and 4 are objected to by the Office Action due to grammatical errors within these claims. Regarding Claim 2, the foregoing amendment to the claims has corrected this oversight. Regarding Claim 4, the misspelling was the result of a word processor error. There have been no amendments to Claim 4, which has always recited "transmit"; therefore, there is no amendment required to correct Claim 4.

The Office Action rejects Claims 1-24 under the provisions of 35 U.S.C. §112, second paragraph.

The Examiner states that the terms "said data packets" and "said RTT" in Claim 1 have insufficient antecedent basis. The Applicant, respectfully, disagrees. These terms are correctly introduced. Therefore, this rejection is traversed.

The Examiner states that the term "said RTT" in Claim 2 has insufficient antecedent basis. The Applicant, respectfully, disagrees. This term is correctly introduced in Claim 1. Therefore, this rejection is traversed.

The Examiner states that the term "may" in Claim 4 renders the claim indefinite. The Applicants, respectfully, disagree. The term "may" is permissive. The term indicates the rate at which server has permission to transmit subsequent data packets to said client. Therefore, this rejection is traversed. The Examiner states that the terms "said acknowledgement messages" in Claim 4 has insufficient antecedent basis. The Applicant, respectfully, disagrees. This term is correctly introduced. Therefore, this rejection is traversed.

The Office Action states that the terms "said burst packets", "said calculated RTT" and "said RTT" lack antecedent basis. These terms have been corrected by the foregoing amendment. This amendment is not a narrowing amendment

and should have no affect on the interpretation of equivalents for these claims. The term “the plurality of data packets” was already correctly introduced.

The Office Action rejects Claims 1-3, 8, 16-17 under the provisions of 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,918,002 issued to Klemets et al. (hereinafter referred to as Klemets et al.). The foregoing amendment to the claims has modified the independent claims to clearly distinguish the present invention from the teachings of Klemets et al. The claims as amended clearly define subject matter for the new sender rate to be included in the no acknowledge transmission as well as within a separate transmission. This subject matter is described within the specification to the present invention in the description related to Figure 4B on pages 9 and 10 of the specification. Klemets et al. do not disclose or suggest the new sender rate being included in the no acknowledge transmission as well as within a separate transmission. Accordingly, this rejection is believed to be moot in view of the foregoing amendment to the claims.

The Office Action rejects Claims 4-6, and 18-20 under the provisions of 35 U.S.C. §103(a) as being unpatentable over Klemets et al. in view of U.S. Patent No. 6,560,243 issued to Mogul (hereinafter referred to as Mogul). The claims as amended clearly define subject matter for the new sender rate to be included in the no acknowledge transmission as well as within a separate transmission. This subject matter is described within the specification to the present invention in the description related to Figure 4B on pages 9 and 10 of the specification. Klemets et al. or Mogul do not disclose or suggest the new sender rate being included in the no acknowledge transmission as well as within a separate transmission. Accordingly, this rejection is believed to be moot in view of the foregoing amendment to the claims.

The Office Action rejects Claims 7, 9-15, and 21-24 under the provisions of 35 U.S.C. §103(a) as being unpatentable over Klemets et al. in view of Mogul and further in view of U.S. Patent No. 6,629,285 issued to Gerendai et al. (hereinafter referred to as Gerendai et al.). The Office Action rejects Claims 4-6, and 18-20 under the provisions of 35 U.S.C. §103(a) as being unpatentable over Klemets et al. in view of U.S. Patent No. 6,560,243 issued to Mogul (hereinafter referred to as Mogul). The claims as amended clearly define subject matter for the new sender rate to be included in the no

acknowledge transmission as well as within a separate transmission. This subject matter is described within the specification to the present invention in the description related to Figure 4B on pages 9 and 10 of the specification. Klemets et al., Mogul or Gerendai et al. do not disclose or suggest the new sender rate being included in the no acknowledge transmission as well as within a separate transmission. Accordingly, this rejection is believed to be moot in view of the foregoing amendment to the claims.

Applicant is not aware of any additional patents, publications, or other information not previously submitted to the Patent and Trademark Office which would be required under 37 C.F.R. 1.99.

In view of the foregoing amendment and remarks, the Applicant believes that the present application is in condition for allowance, with such allowance being, respectfully, requested.

Respectfully submitted,

By 

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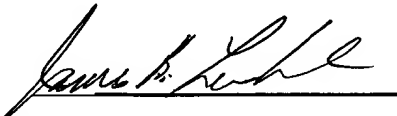
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I hereby certify that this correspondence is being deposited this date with the United States Postal Service as first-class mail in an envelope addressed to: Mail Stop: Amendment, COMMISSIONER FOR PATENTS, P.O. Box 1450, Alexandria, VA 22313-1450

on: December 27, 2005

(Mailing Date)

Signature:



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